

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LOIS L. FIELD, an individual,

Case No. 13-cv-12605

Plaintiff,

*Formerly Oakland County Circuit
Court No. 13-133290-CH*

v

UNITED STATES OF AMERICA, and
MICHIGAN DEPARTMENT OF TREASURY,

Defendants.

/

NOTICE OF REMOVAL

TO: Joseph Falcone
3000 Town Center, Suite 2370
Southfield, MI 48075

Julius H. Giarmarco
Giarmarco Mullins & Horton, P. C.
101 W. Big Beaver Road, Floor 10
Troy, MI 48084

PLEASE TAKE NOTICE that the defendant United States of America (“USA”), pursuant to 28 U.S.C. §§ 1442(a)(1) and 1444, removes this action (Case No. 13-133290-CH), which is now pending in the Oakland County Circuit Court for the State of Michigan, from said court to the United States District Court for the Eastern District of Michigan, Southern Division. This action is removable pursuant to 28 U.S.C. § 1442(a)(1) as it was brought against the United States, and 28 U.S.C. § 1444, as the plaintiff appears to invoke the waiver of sovereign immunity set forth in 28 U.S.C. § 2410.

Photocopies of the summons, complaint, together with attachments, constituting all non-duplicative process and pleadings received by the received by the trial attorney for the United States to the date of this notice, are attached as required by 28 U.S.C. § 1446(a).

No prior removal of the action has been attempted.

This notice of removal is filed in accordance with the procedures of 28 U.S.C. § 1446, and the removal of the action is timely under the provisions of 28 U.S.C. § 1446(b).

WHEREFORE, Oakland County Circuit Court No. 13-133290-CH has been removed to the United States District Court for the Eastern District of Michigan and this entire action is now pending in this federal court.

Respectfully submitted,

KATHRYN KENEALLY
Assistant Attorney General
Tax Division

/s/ Julie C. Avetta
JULIE C. AVETTA
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55
Washington, D.C. 20044
202-616-2743 (v)
202-514-5238 (f)
Email: Julie.C.Avetta@usdoj.gov

Of Counsel:
BARBARA L. McQUADE
United States Attorney

Dated: June 14, 2013

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing **Notice of Removal** and Certificate of Service has this 14th day of June, 2013, been made upon the following, by placing same in an envelope, and depositing said envelope in a United States Postal receptacle at Detroit, Michigan addressed to:

Joseph Falcone
3000 Town Center, Suite 2370
Southfield, MI 48075

Julius H. Giarmarco
Giarmarco Mullins & Horton, P. C.
101 W. Big Beaver Road, Floor 10
Troy, MI 48084

s/ Julie C. Avetta

CTN

JOSEPH FALCONE, P.C.

LAW OFFICES

Joseph Falcone

jf@lawyer.com

May 16, 2013
Via Certified U.S. Mail, Return Receipt
7012290000121250165

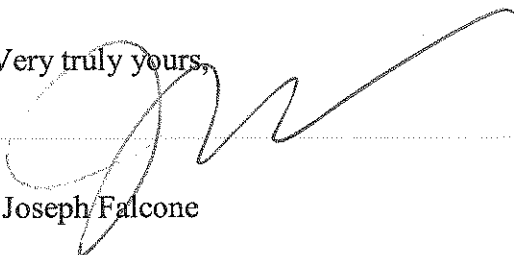
Eric Holder, Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

In re: Field v. U.S. and Michigan Department of Treasury
Oakland County Circuit Court, Docket No. 2013-133290-CH

Dear Mr. Holder:

Enclosed is a copy of the Complaint with exhibits and the summons issued in the above-entitled quiet title action lawsuit.

Very truly yours,


Joseph Falcone

JF/rl
Enclosures as stated

2013 MAY 17 PM 1:05
U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT Sixth JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 2013-133290-CH
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Court address

1200 N. Telegraph Road, Pontiac, MI 48341

Court telephone no.

(248) 858-0349

Plaintiff's name(s), address(es), and telephone no(s).

Lois L. Field
1683 Black Maple
Rochester Hills, MI 48305

v

Defendant's name(s), address(es), and telephone no(s).

United States of America and Michigan Department of
Treasury

United States of America

211 W. Fort Street, Suite 2001
Detroit, MI 48226

Plaintiff's attorney, bar no., address, and telephone no.

Joseph Falcone (P25727)
3000 Town Center, Suite 2370
Southfield, MI 48075
248-357-6610This case has been designated as an eFiling case. To review a copy of the
Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.**SUMMONS** NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to file a written answer with the court and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued APR 05 2013	This summons expires JULY 05 2013	Court clerk Lisa Brown
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*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.**Family Division Cases**

- ☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.
- ☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.
- The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

- ☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.
- The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
------------	-------	---------

VENUE

Plaintiff(s) residence (include city, township, or village) Rochester Hills, MI	Defendant(s) residence (include city, township, or village) Detroit, Michigan
Place where action arose or business conducted Rochester Hills, Michigan	

04/05/2013

Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

MC 01 (3/08) SUMMONS AND COMPLAINT MCR 2.102(B)(11), MCR 2.104, MCR 2.105, MCR 2.107, MCR 2.113(C)(2)(a), (b), MCR 3.205(A)

Received for Filing Oakland County Clerk 2013 APR 05 PM 03:44

This case has been designated as an eFiling case. To review a copy of the Notice of Mandatory eFiling visit www.oakgov.com/clerkrod/efiling.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

LOIS L. FIELD, an individual,

Plaintiff,

v.

2013-133290-CH
Case No. CH
JUDGE POTTS

UNITED STATES OF AMERICA, and
MICHIGAN DEPARTMENT OF TREASURY,

Defendant.

Joseph Falcone (P25727)
Attorney for Plaintiff
3000 Town Center, Suite 2370
Southfield, MI 48075
248-357-6610

Julius H. Giarmarco (P25871)
Attorney for Plaintiff
Giarmarco Mullins & Horton, P.C.
101 W. Big Beaver Road, Floor 10
Troy, MI 48084
248-457-7200

COMPLAINT TO QUIET TITLE

NOW COMES Plaintiff, Lois L. Field, by and through her attorneys, Joseph Falcone and Julius H. Giarmarco, and for her Complaint to Quiet Title, states as follows:

1. Plaintiff is an individual residing in the County of Oakland, State of Michigan.
2. Defendant United States of America and has, as its agency, the Internal Revenue Service.
3. Defendant Michigan Department of Treasury is a Department of the State of Michigan.
4. This action is brought pursuant to and this Court has jurisdiction under MCL 600.2932 and 28 USC 2410.
5. This is an action to quiet title to real property by Plaintiff in fee simple and located at 1683 Black Maple Drive, Rochester Hills, MI 48309, and more fully described as follows:

Lot 10, Willowood Subdivision, according to the plat thereof as recorded in Liber 154, Pages 29, 30, 31 and 32 of Plats, Oakland County Records. Tax Parcel No. 15-16-137-001.

6. Plaintiffs' title to the above-described property is derived from the warranty deed from Oliver Homes, Inc., to Marshall A. Field and Lois L. Field, his wife, dated December 10, 1979, and filed with the Oakland County Register of Deeds on December 27, 1979, at Liber 7702, page 275, Oakland County Records. Attached hereto As Exhibit A is a copy of the warranty deed.
7. Attached as Exhibit B is a Statement of Title upon which Plaintiff relies.
8. From December 10, 1979, until Marshall A. Field died on June 6, 2010, Plaintiff and Marshall A. Field held title to the above-described property as tenants by the entireties.

9. Upon Marshall A. Field's death on June 6, 2010, Plaintiff became the sole owner of the above-described property by right of survivorship and claims sole ownership of the above-described property and is sole possession thereof.
10. The Internal Revenue Service filed a Notice of Federal Tax Lien against Marshall A. Field with the Oakland County Register of Deeds on March 10, 2008, at Liber 40087, Page 342, Oakland County Records. A copy of the Notice of Federal Tax Lien is attached hereto as Exhibit C.
11. The Notice of Federal Tax Lien, Exhibit C, did not name Plaintiff as a taxpayer and did not claim a lien on or interest in Plaintiff's individual property.
12. The Notice of Federal Tax Lien, Exhibit C, purports to be a lien or claim of interest against the above-described property, even though any interest that the Notice of Federal Tax Lien could have secured would have ceased to exist upon Marshall A. Field's death. As such, the Internal Revenue Service might claim an interest inconsistent with the interest claimed by Plaintiff.
13. The Plaintiff has requested that the Internal Revenue Service issue a certificate of nonattachment relating to the above-described property from any claim it has pursuant to the Notice of Federal Tax Lien, Exhibit C, but the Internal Revenue Service refused to issue said requested certificate of nonattachment, thus compelling Plaintiff to bring this suit.
14. The Michigan Department of Treasury filed a Notice of State Tax Lien against Marshall A. Field with the Oakland County Register of Deeds on August 25,

2009, at Liber 041436, Page 297, Oakland County Records. A copy of the Notice of State Tax Lien is attached hereto as Exhibit D.

15. The Notice of State Tax Lien, Exhibit D, did not name Plaintiff as a taxpayer and did not claim a lien on or interest in Plaintiff's individual property.
16. The Notice of State Tax Lien, Exhibit D, purports to be a lien or claim of interest against the above-described property, even though any interest that the Notice of State Tax Lien could have secured would have ceased to exist upon Marshall A. Field's death. As such, the Michigan Department of Treasury might claim an interest inconsistent with the interest claimed by Plaintiff.
17. The Michigan Department of Treasury filed a Notice of State Tax Lien against Marshall A. Field with the Oakland County Register of Deeds on February 28, 2008, at Liber 040055, Page 659, Oakland County Records. A copy of the Notice of State Tax Lien is attached hereto as Exhibit E.
18. The Notice of State Tax Lien, Exhibit E, did not name Plaintiff as a taxpayer and did not claim a lien on or interest in Plaintiff's individual property.
19. The Notice of State Tax Lien, Exhibit E, purports to be a lien or claim of interest against the above-described property, even though any interest that the Notice of State Tax Lien could have secured would have ceased to exist upon Marshall A. Field's death. As such, the Michigan Department of Treasury might claim an interest inconsistent with the interest claimed by Plaintiff.

20. This Honorable Court should enter its judgment against Defendants quieting title to the above-described property in Plaintiff and order the Defendants to release to Plaintiff all claims thereto.

WHEREFORE, Plaintiff prays that this Honorable Court quiet title in the above-described property in the Plaintiff and issue a Judgment against Defendants ordering Defendants to release to Plaintiff all claims thereto.

/s/ Joseph Falcone Dated: March 29, 2013
Joseph Falcone (P25727)
Attorney for Plaintiff
3000 Town Center, Suite 2370
Southfield, MI 48075
248-357-6610

/s/ Julius H. Giarmarco Dated: March 29, 2013
Julius H. Giarmarco (P25871)
Attorney for Plaintiff
Giarmarco Mullins & Horton, P.C.
101 W. Big Beaver Road, Floor 10
Troy, MI 48084
248-457-7200

EXHIBIT A

Dec. 27 1979

#18276-7

WARRANTY DEED

STATUTORY FORM FOR CORPORATION

LBN 7702 MAY 27 79

Philip S. Gies
79 139912
TITLE COMPANY

KNOW ALL MEN BY THESE PRESENTS, That OLIVER HOMES INC. A Michigan Corporation

whose address is 1800 Washington Rochester, Michigan 48063

Conveys and Warrants to Marshall A. Field & Lois L. Field his wife

whose street number and parcel address is 44125 Applewood Canton, Michigan

the following described premises situated in the Township of Avon County of Oakland and State of Michigan, to-wit:

LOT 19,

WILKINSON SUBDIVISION, according to the plat thereof as recorded in Liber 154, pages 29, 30, 31, and 32 of Plans, Oakland County Records.

3-1/2
16

Parcel Identification No. 15-10-127-001

together with all and appurtenant the interests, improvements and appurtenances thereto belonging or in anywise appertaining

for the sum of One Hundred & Thirty Five Thousand & Five Hundred and no/100 Dollars.
(\$135,000.00)

subject to

Easements & Restrictions of Record

Dated this 19th day of December 1979

Signed in the presence of

Signed by

Francis P. Randazzo
Francis P. Randazzo
Laura Mayne

Oliver Homes Inc.

A Michigan Corporation

By: Philip S. Gies
Authorized Signatory
PresidentSTATE OF MICHIGAN
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this

19th day of

December

1979

by Oliver Homes Inc.

(Individual Name(s) and Office(s) Title)

President

Oliver Homes Inc.

(Corporate Name)

Michigan

corporation, on behalf of the corporation.

(State of Incorporation)

My Commission expires May 31 1982

Francis P. Randazzo
Oakland County, Michigan

I, the undersigned, a Notary Public for the State of Michigan, do hereby certify that the foregoing instrument was acknowledged before me on the day and date above written, and that the person or persons whose name or names are subscribed to the instrument as the grantor or grantors, are the person or persons whose name or names are subscribed to the instrument as the grantor or grantors, and that the instrument is a true and correct copy of the original instrument as the same appears from the records of my office.

City Treasurer's Certificate

STATE OF MICHIGAN
NOTARY PUBLIC
Notary Seal No. 140.00
12-27-79When Recorded Return To:
MORTGAGE COMPANY
ARNDT VAN DYKE
UTICA, MI 48063Send Subsequent Tax Lien To:
MORTGAGE COMPANY
ARNDT VAN DYKE
UTICA, MI 48063Dated by Francis P. Randazzo
Business Address 1800 Washington
Rochester, Michigan 48063

Tax Paid \$ Recording Fee \$4.30 Notary Stamp \$1.00

EXHIBIT B

STATEMENT OF TITLE

Lois L. Field claims title to the disputed property pursuant to the Warranty Deed from Oliver Homes, Inc., to Marshall A. Field and Lois L. Field, his wife, filed in Oakland County Records, Liber 7702, Page 275, a copy of which is attached to this Complaint.

Received for Filing Oakland County Clerk 2013 APR 05 PM 02:57

EXHIBIT C

EXHIBIT D

LIBER:41436 PG:297

0154269

LIBEX 041436 PAGE 00297
\$10.00 MICHIGAN TAX LIEN
\$.00
08/25/2009, 04:42:54 P.M. RECEIPT# 70072
PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTRAR OF DEEDS

NOTICE OF STATE TAX LIEN

Account No. Prim XXXXXX 3209 Sec	Lien No. 1564829
--	------------------

FIELD MARSHALL A
1683 BLACK MAPLE DR

ROCHESTER HILLS , MI 48309

826 (Formerly G4531; Rev.10/00) TCD2/F01
Michigan Dept. of Treasury - Collections
PO Box 30199
Lansing, MI 48909 Page 1 of

Page 1 of 1

For optional use by recording office

ON REAL PROPERTY

Under P.A. 203 of 1968, as amended, you are notified by this document the taxes, penalties and interest identified below remain unpaid. A lien in favor of the State of Michigan exists on all your property and rights to property both real and personal in the below total due, plus any future, penalties, interest, or other costs. The lien attaches to property you own now and that you acquire.

Tax	Assessment Date	Assessment No.	Unpaid Balance of Assessment
Income Tax	12/07/07	F616697	\$ 29471.20

TOTAL DUE **\$29471.20**

Filed With: OAKLAND COUNTY

Mary K. McDowell

Mary G. MacDowell, Director, Financial Services Bureau

Date

8/24/2009



EXHIBIT E

LIBER:40055 PG:659

0037208

LIBER 040055 PAGE 00659
\$10.00 MICHIGAN TAX LIEN
\$.0002/28/2008, 04:46:17 P.M. RECEIPT# 19326
PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTER OF DEEDS

NOTICE OF STATE TAX LIEN

828 (Formerly C4531; Rev.10/00) TCO2/F01
Michigan Dept. of Treasury - Collections
PO Box 30199
Lansing, MI 48909 Page 1 of 1

Account No. Prim F382028535 Sec S362303209	Lien No. 1463161
---	------------------

FIELD MARSHALL A
1683 BLACK MAPLE DR

ROCHESTER HILLS , MI 48309

For optional use by recording office

ON REAL PROPERTY

Under P.A. 203 of 1968, as amended, you are notified by this document the taxes, penalties and interest identified below remain unpaid. A lien in favor of the State of Michigan exists on all your property and rights to property both real and personal in the below total due, plus any future, penalties, interest, or other costs. The lien attaches to property you own now and that you acquire.

Tax	Assessment Date	Assessment No.	Unpaid Balance of Assessment
Withholding Tax	10/22/07	0349799	\$ 10360.87

TOTAL DUE \$10360.87

Filed With: OAKLAND COUNTY

Mary G. MacDowell
Mary G. MacDowell, Director, Financial Services Bureau

Date
2/27/2008



Received for Filing Oakland County Clerk 2013 APR 05 PM 02:57

EXHIBIT A

Dec. 27 1979

0219276-7

WARRANTY DEED
STATUTORY FORM FOR CORPORATION

1977021275

Philip S. Gales
79 139912
TITLE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That OLIVER HOMES INC. A Michigan Corporation

whose address is 1808 Washington Rochester, Michigan 48063

Conveys and Warrants to

Marshall A. Field & Lois L. Field his wife

whose street number and possible address is 44183 Applewood Canton, Michigan

the following described premises situated in the Township of Avon, County of Oakland and State of Michigan, to-wit:

LOT 18,

WILLOWOOD SUBDIVISION, according to the plat thereof as recorded in Liber 154, pages 28, 30, 31, and 32 of Plats, Oakland County Records.

Parcel Identification No. 18-16-127-001

together with all and singular the tenements, hereditaments and appurtenances thereto in anywise appertaining.

for the sum of One Hundred & Thirty Five Thousand & Five Hundred ... Dollars. (\$135,500.00)

subject to

Easements & Restrictions as recorded

Dated this 18th day of December 1979

Signed in the presence of

Signed by

Francis P. Randazzo
Francis P. Randazzo
Clara M. Meyer
Laura Meyer

Oliver Homes Inc.

A Michigan Corporation

By Philip S. Gales
Authorized Representative
PresidentSTATE OF MICHIGAN
County of Oakland

The foregoing instrument was acknowledged before me this 18th day of December

1979 by Helvetea Lechirao

President

(Full Name and Address) of
Oliver Homes Inc.

(Corporate Name)

Michigan

(State of Incorporation)

Francis P. Randazzo
Francis P. Randazzo
Oakland

My Commission expires May 11 1982

City Treasurer's Certificate

STATE OF MICHIGAN
REAL ESTATE
TRANSACTION
140.05
Date of Record
No. 1112

When Received Return To

MORTGAGE COMPANY

4400 VAN DYKE

UTICA, MI 48063

Send Subsequent Tax With Tax

MORTGAGE COMPANY

4400 VAN DYKE

UTICA, MI 48063

Dated by

Francis P. Randazzo

Mailing Address 1808 Washington

Rochester, Michigan 48063

Tax Parcel # 18-16-127-001

300
ST

EXHIBIT B

STATEMENT OF TITLE

Lois L. Field claims title to the disputed property pursuant to the Warranty Deed from Oliver Homes, Inc., to Marshall A. Field and Lois L. Field, his wife, filed in Oakland County Records, Liber 7702, Page 275, a copy of which is attached to this Complaint.

EXHIBIT C

EXHIBIT D

EXHIBIT E

